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No. 82-1922

IN THE

Supreme Court of the United States

OCTOBER TERM, 1983

SOUTHERN MOTOR CARRIERS RATE CONFERENCE, INC.
and
NORTH CAROLINA MOTOR CARRIERS ASSOCIATION, INC.
and
NATIONAL ASSOCIATION OF
REGULATORY UTILITY COMMISSIONERS,
Petitioners,

v.

UNITED STATES OF AMERICA,
Respondent.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit, Unit "B"

SUPPLEMENTAL BRIEF OF PETITIONERS

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SUPPLEMENTAL BRIEF OF PETITIONERS

Petitioners Southern Motor Carriers Rate Conference, Inc. ("SMCRC"), North Carolina Motor Carriers Association, Inc. ("NCMCA"), and the National Association of Regulatory Utility Commissioners ("NARUC"), file this Supplemental Brief in support of their pending Petition for Writ of Certiorari, pursuant to Supreme Court Rule 22.6. Petitioners file this Supplemental Brief to call to the Court's attention significant factual developments related to the Petition which were not known to Petitioners at the time of their last filing herein.

On September 2, 1983, Petitioners filed their Reply Brief in support of the pending Petition. Shortly thereafter, members of Petitioner NARUC advised their organization that transportation regulatory commissions in certain states had recently received written requests from the United States Department of Justice for information regarding the regulation of motor carrier rate bureaus. The specific requests made to the Washington Utilities and Transportation Commission are attached in Appendix A. To date, fourteen states listed in the footnote have notified Petitioner NARUC that they have received requests substantially identical to that contained in Appendix A.[1] The appended letter from Elliott M. Seiden, Chief, Transportation Section, Antitrust Division to the Washington Utilities and Transportation Commission (Appendix A at 1a -2a) begins by purporting to summarize the holding of the court below in the case at bar. The letter goes on to state that the Antitrust Division is "interested in ascertaining the identity of states in which such rate bureaus operate and the precise nature of their activities." (*Id.*). This interest is pursued "to implement our law enforcement responsibilities. . . ." (*Id.*). Attached to the letter is a four-page questionnaire seeking specific information and documents concerning the details of state regulation of motor common carriers.

Petitioners have been unable to discover from the Justice Department the exact scope of this investigation. Employees at the Department have declined to answer such inquiries. It is apparent, however, that the Government is pursuing a nationwide investigation of motor common carrier rate bureau activities, using the decision

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[1] The fourteen states are as follows: Arkansas, California, Idaho, Illinois, Indiana, Louisiana, Michigan, Minnesota, Ohio, Oklahoma, Oregon, Texas, Washington and Wyoming.

of the court below as its basis. Presumably, such an investigation will lead to nationwide enforcement activities.

Petitioners bring this matter to the attention of the Court to underscore the tremendous national importance of the present case. Petitioners stated this point in their original Petition. In its Reply, the Government did not deny the national importance of the case, as indeed it could not, given its plans to utilize the decision on a nationwide basis even before this Court has had an opportunity to make its determination on the pending Petition for Certiorari.

CONCLUSION

Petitioners respectfully request that their Petition for a Writ of Certiorari be granted.

Respectfully submitted,

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